



Arts and Law: Pre-Feasibility Fieldwork for a Dedicated Specialist Support Service

Executive Summary

tom fleming / creative consultancy /

Contents

Executive Summary	3
1. Arts and Law: The Changing Terrain for Contemporary Practice	4
1.1 Professionalisation and Sustainable Careers	4
1.2 Technological Change	6
1.3 Collaboration and Convergence	12
1.4 Commercialisation	14
2. Arts and Law: Supply-side Factors	15
2.1 A Brief History of Supply	15
2.2 International Provision	16
2.3 The Existing Supply Landscape	17
2.4 Strengths, Weaknesses, Opportunities and Threats of the Current Supply Landscape	24
3. Arts and Law: Demand-side Factors	25
3.1 Existing Demand	26
3.2 Demand Across Different Legal Areas	27
3.3 Emerging Demand	28
3.4 Latent Demand	30
4. Ways Forward: An Arts and Law Service?	31
4.1 Towards a Code of Practice for Arts and Law	33
Appendix 1: Arts and Law: Research and Consultancy Notes – Selected Interviews	36

Executive Summary

This report provides a summary of pre-feasibility research that focuses on the potential for introducing specialist arts and law support services in England for the contemporary arts. Based on a qualitative methodology, the report asks the question: does the contemporary arts sector require specialist legal support to ensure that creativity is not stifled by fears of misappropriation and the perceived risks of unbounded collaboration? This includes a focus on increasing awareness of a shifting legal terrain and on advancing the knowledge of this terrain amongst legal professionals.

The research has been commissioned as part of Arts Council England's Interpret Programme. This focuses on supporting contemporary arts practice, engaging artists to pursue their creative and innovative potential, encouraging collaboration, and providing navigable tools for artists so they can develop sustainable, professional careers. This report shows how issues of arts and law sit at the heart of contemporary arts practice as one of 7 connected 'core professional competencies'. It shows that without a greater appreciation of the legal implications of their work, artists are taking undue risks or – by contrast – are being overly protective and risk averse. It also shows that without improved supply of specialist legal support to artists and without greater awareness from legal professionals of the commercial and professional development potential of artists as clients, then contemporary artists in England will not reach their creative or commercial potential.

Indeed, the report shows that processes of digitalisation and broader changes in artistic practice are complicating the legal terrain of contemporary arts. For example, without improved knowledge of the legal implications of Digital Rights Management issues, many artists will refrain from the more explorative and collaborative work and err towards safety rather than risk. Correspondingly, unless legal professionals can be encouraged to grapple with these issues and to

develop an appetite to engage with the arts as an emergent (and possibly profitable) market, then the creative potential of many artists will be unfulfilled. This has wider implications for the whole Creative Industries, which for the greatest success should operate on the front foot rather than from a position in which practitioners and businesses are rather lost in a transforming legal terrain.

The report explores how artists can be better positioned to navigate successfully and confidently through this terrain. It does this through a focus on current and future demand for advice and support in arts and law issues; and matches this with a focus on current supply of specialist advice and support. It concludes that a set of positive reasons exist for introducing a dedicated approach to nurturing demand and improving supply in arts and law. It argues that an Arts and Law Code of Practice be established with 7 core functions that work collectively to connect demand more closely to supply, to provide guidance and instil confidence, to inform policy development, and to build practical strategic partnerships so that a collective and consensus-based approach to arts and law is established.

This Code of Practice provides a model to be tested through ongoing development research and dialogue led by Arts Council England.